

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1285 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10019-6054  
TELEPHONE (212) 373-3000

LLOYD K GARRISON (1946-1991)  
RANDOLPH E PAUL (1946-1996)  
SIMON M RIFKIND (1950-1995)  
LOUIS S WEISS (1927-1990)  
JOHN F WHARTON (1927-1977)

UNIT 3601 OFFICE TOWER A BEIJING FORTUNE PLAZA  
NO 7 DONGSANHUAN ZHONGLU  
CHAOYANG DISTRICT  
BEIJING 100020  
PEOPLE'S REPUBLIC OF CHINA  
TELEPHONE (86-10) 5828-6300

12TH FLOOR HONG KONG CLUB BUILDING  
3A CHATER ROAD CENTRAL  
HONG KONG  
TELEPHONE (852) 2848-0300

ALDER CASTLE  
10 NOBLE STREET  
LONDON EC2V 7JL U.K.  
TELEPHONE (44 20) 7367 1600

FUKOKU SEIMEI BUILDING  
2-2 UCHIBAIWAICHO 2-CHOME  
CHYODA-KU, TOKYO 100-0011 JAPAN  
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE  
77 KING STREET WEST SUITE 3100  
PO BOX 726  
TORONTO ONTARIO M5K 1J3  
TELEPHONE (416) 504-0520

2001 K STREET NW  
WASHINGTON DC 20005-1047  
TELEPHONE (202) 223-7900

500 DELAWARE AVENUE SUITE 200  
POST OFFICE BOX 32  
WILMINGTON DE 19899-0032  
TELEPHONE (302) 656-4410

MATTHEW W ABBOTT  
EDWARD T ACKERMAN  
ALLAN J ARFA  
ROBERT A BARNETT  
DAVID J BALL  
JOHN F BAUGHMAN  
LYNN B BAYARD  
DANIEL J BELLER  
CRAIG A BENSON  
MITCHELL L BERG  
MARK S BERGMAN  
BRUCE S BIRNBAUM  
H CHRISTOPHER BOEHNING  
ANGELO BONVINO  
HARVEY L BROTHMAN  
RICHARD J BRONSTEIN  
DAVID W BROWN  
SUSANNA M BUERGER  
PATRICK S CAMPBELL  
JESSICA S CAREY  
JEANETTE K CHAN  
YVONNE Y CHAN  
LEWIS R CLAYTON  
JAY COHEN  
KELLEY A CORNISH  
CHRISTOPHER J CUMMINGS  
CHARLES E DAVIDOW  
THOMAS Y DE LA BASTIDE III  
ARIEL J DECKELBAUM  
ALICE BELISLE EATON  
ANDREW J EHRLICH  
GREGORY A EZRING  
LESLIE GORDON FAGEN  
MARC FALCONE  
ROSSE A FIELDSTON  
DAVID W C FINCH  
BRAD J FINKELSTEIN  
BRIAN F FINNEGAN  
ROBERTO FINZI  
PETER E FISCH  
ROBERT C FLEDER  
MARTIN FLUMENBAUM  
ANDREW J FOLEY  
HARRIS E FREIDUS  
MANUEL S FREY  
ANDREW L GAINES  
KENNETH A GALLO  
MICHAEL E GERTZMAN  
ADAM M GIVERTZ  
SALVATORE GUGLIEMIELLA  
ROBERT D GOLDBAUM  
NEIL GOLDMAN  
CATHERINE L GOODALL  
ERIC GOODISON  
CHARLES H GOODE JR  
ANDREW G GORDON  
UDY GROFMAN  
NICHOLAS GROOMBRIDGE  
BRUCE A GUTENPLAN  
JUSTIN G HAMILL  
CLAUDIA HAMMERMAN  
GERARD E HARPER  
BRIAN S HERMAN  
MICHAEL HIRSHMAN  
MICHAEL S HONG  
DAVID S HUNTINGTON  
AMRAN HUSSEIN  
LORETTA A IPPOLITO  
BRIAN M JACOBSON  
JAREN JANGHORBANI  
MEREDITH J KANE

ROBERTA A KAPLAN  
BRAD S KARP  
PATRICK N KARNITZ  
JACOB C KENNEDY  
BRIAN KIM  
ALAN W KORNBORG  
DAVID J KRAMER  
DAVID K LAKHDHIN  
STEPHEN F LAMB  
JOHN E LANGE  
DANIEL J LEFFELL  
XIAOYU GREG LIU  
JEFFREY D MARELL  
MARCO V MASOTTI  
DAVID R MCARDY  
DAVID W MAYO  
ELIZABETH R MCCOLM  
MARK F MENDELSON  
WILLIAM B MICHAEL  
TOBY S MYERSON  
CATHERINE NYARADY  
JANE B O'BRIEN  
ALEX YOUNG K OH  
BRAD R OKUN  
KELLEY D PARKER  
NANCY E PERLMUTTER  
VALERIE E RADWANER  
CARL L REISNER  
LORIN E REISNER  
WALTER S RICCIARDI  
WALTER RIFMAN  
RICHARD A ROSEN  
ANDREW N ROSENBERG  
JACQUELINE P RUBIN  
RAPHAEL M RUSSO  
ELIZABETH M SACKSTEIN  
JEFFREY D SAFERSTEIN  
JEFFREY B SAMUELS  
DALE W SARGO  
TERRY E SCHIMKE  
KENNETH M SCHNEIDER  
ROBERT S SCHUMER  
JOHN M SCOTT  
STEPHEN J SHIMSHAK  
DAVID R SIGULAR  
MOSES SILVERMAN  
STEVEN SIMKIN  
JOSEPH J SIMONS  
AUDRA J SOLOWAY  
SCOTT M SONTAG  
TARUN M STEWART  
ERIC ALAN STONE  
AIDAN SYNNOTT  
ROBYN F TARNOFSKY  
MONICA K THURMOND  
DANIEL J TOAL  
LIZA M VELAZQUEZ  
MARIA T VULLO  
ALEXANDRA M WALSH  
THEODORE V WELLS JR  
BETH A WILKINSON  
STEVEN J WILLIAMS  
LAWRENCE I WITDORCHIC  
MARK B WLAZLO  
JULIA MARON WOOD  
JENNIFER H WU  
JORDAN E YARETT  
KAYE N YOSHINO  
TONG YU  
TRACEY A ZACCONE  
TAURIE M ZEITZER  
T ROBERT ZOGHOSKI JR

\*NOT ADMITTED TO THE NEW YORK BAR

WRITER'S DIRECT DIAL NUMBER

212-373-3020

WRITER'S DIRECT FACSIMILE

212-492-0020

WRITER'S DIRECT E-MAIL ADDRESS

dkramer@paulweiss.com

September 18, 2015

By Facsimile

The Honorable Kevin Nathaniel Fox  
United States District Court  
for the Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

*Kaplan v. S.A.C. Capital Advisors, L.P., No. 12 Civ. 9350*

Dear Judge Fox:

We write on behalf of the SAC Defendants in response to the letters dated September 17, 2015 from Plaintiffs and from Defendant Mathew Martoma. The SAC Defendants agree with the position in Mr. Martoma's letter that Plaintiffs' request for leave to depose Mr. Martoma after the close of fact discovery is premature. Plaintiffs are seeking leave—now—to depose Mr. Martoma at an unspecified date, perhaps several months or years into the future, should certain scenarios come to pass, but those scenarios are purely hypothetical and unlikely to come to pass (if at all) for some time, especially in light of the fact that Mr. Martoma's appeal has been stayed pending Supreme Court review of the petition for certiorari in *United States v. Newman*, 773 F.3d 438 (2d Cir. 2014). See *United States v. Martoma*, No. 14-3599 (2d Cir. Sept. 1, 2015) (order granting continuance). Rather than deciding whether open-ended relief is appropriate in advance, the Court (and the parties) will be better positioned to address these matters if and when circumstances do change. Since the parties do not know if and when that may be, and Your Honor's intervention may never be necessary, we submit that there is no

Date 9/29/15  
Docket and File  
Kevin Nathaniel Fox  
HON. KEVIN NATHANIEL FOX  
United States Magistrate Judge  
Southern District of New York

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

The Honorable Kevin Nathaniel Fox

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need for a ruling at this time. *See, e.g., Sahu v. Union Carbide Corp.*, No. 04 Civ. 8825(JFK), 2010 WL 2473585, \*2 (S.D.N.Y. June 16, 2010) (denying plaintiffs' motion seeking guidance about how court would rule on a hypothetical amended complaint because it was "premature" and would "waste judicial resources on a dispute that may never come to pass").

Respectfully submitted,

Handwritten signature of Daniel J. Kramer in black ink, followed by a stylized flourish.

Daniel J. Kramer

cc: All counsel of record (by email)